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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,007	12/21/1999	MARK H. LINEHAN	RSW9-99-080	4403
7590	08/12/2005		EXAMINER	
MARCI A. DOUBET			HOSSAIN, FARZANA E	
P.O. BOX 422859			ART UNIT	PAPER NUMBER
KISSIMMEE, FL 34742-2859			2617	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/469,007	LINEHAN, MARK H.	
	<b>Examiner</b> Farzana E. Hossain	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,7,8,20,26,27,39,45,46,59 and 62-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,7,8,20,26,27,39,45,46,59 and 62-71 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 December 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02-23-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed 2/23/2005. Claims 1, 7-8, 20, 26-27, 39, 45-46, 59 and 62-71 are pending. Claims 1, 20, 39, 62-64, 67, 69, and 71 are amended. Claims 7-8, 26-27, 45-46, 59, 65-66, 68, and 70 have been previously presented. Claims 2-6, 9-19, 21-25, 28-38, 40-44, 47-58, 60-61 and 72-75 are canceled.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7, 8, 20, 26, 27, 39, 45, 46, 59, 62-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al (US 6,732,369 and hereafter referred to

as "Schein") in view of Daly et al (US 5,878,141 and hereafter referred to as "Daly") and Shell (US 2001.0011236).

3.

Regarding Claims 1, 20, 39, and 71, Schein discloses a system, a method and a computer program product (Figure 1), for enabling television (TV)-based commerce to generate revenue streams (Figure 21C) for TV originators or ABC (Figures 15 and 21C) in an interactive television environment (Figure 1), the environment having a connection to a computer network (Figures 14 and 15) and the system comprising means for initiating a TV commerce transaction by a consumer using the interactive television environment (Figure 21C), wherein the transaction pertains to an offering of a merchant (Column 22, lines 57-67, Column 23, lines 1-12 and Figure 21C); means for gathering TV context information (Column 8, lines 43-47, lines 4, Column 22, lines 66-67, Column 23, lines 1-12) related to a TV context in which the offering is presented to the consumer (Figure 21C and Column 22, lines 66-67, Column 23, lines 1-12), wherein the TV context information enables identifying one or more TV originators, each of which is distinct from the merchant; means for transmitting the gathered TV context information from a device (Figure 1, 10) used by the consumer. Schein discloses a computer system (Figure 1, 10), includes software to conduct various functions or a computer program product with computer readable code means (Figure 1). This reads on computer readable media by the computer system.

Schein does not disclose transmitting the TV context information from a device to an issuer of an account of the consumer when requesting authorization of payment

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using the account for the transaction, means for including transmitted TV context information in an authorization token created by the issuer and the token is digitally signed by the issuer, means for sending the token with the context information to an acquired distinct from the merchant, means for the acquiring to verify that the issuer created the digital signature on the token, that the payment was authorized and that the TV context information was not altered and automatically allocating a portion of the payment to the TV originator.

Daly discloses a means for transmitting gathered information or TV context information (Column 7, lines 1-7) from a device (Figure 3, 46) used by the consumer to an issuer of an account or purchasing system (Column 13, lines 22-35) of the consumer when requesting authorization paying using the account for the transaction (Column 13, lines 35-45). Daly discloses that the purchase request in its most simplified form contains information about the merchant, consumer and the payment amount of the product. Therefore, the purchase request can include information of the product including broadcasting information. Daly discloses a means for including the transmitted information or TV context information (Column 13, lines 36-38) in an authorization token created by the issuer or the issuer and the token is digitally signed by the issuer or an attachment of a signature which is being transmitted is a digital signature of the issuer and used by the issuer for authorization (Column 40-42), means for sending the authorization token and information or TV context information to an acquirer or transaction routing system or sending the information to the appropriate system (Column 13, lines 58-64) that is distinct from and processes payments for the

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merchant (Column 13, lines 66-67, Column 14, lines 1-13) when requesting the acquirer to collect the payment for the transaction (Column 14, lines 4-10); and means for concluding by the acquirer upon verifying that the issuer created the digital signature on the authorization token (Column 13, lines 66-67, Column 14, lines 1-13), that the payment was authorized by the issuer and the information or TV context information has not been altered or that information including the digital signature and purchase request has been transmitted via a secure communications path without being altered (Column 14, lines 11-25).

Shell discloses that the acquirer or Sales Support Server, distinct from the merchant or payee (Page 3, paragraph 0104), proceeding to automatically allocate a portion of the payment or commission (Page 5, paragraph 0203) to the TV originator or another payee or seller (Figure 1), according to the information or purchase request or TV context information. It is inherent that if a commission is being paid to the TV originator that the amount of payment to be paid to the merchant or seller is reduced by the automatically allocated portion.

It would have been obvious at the time the invention was made to modify Schein to transmit gathered TV context information the issuer of an account (Column 13, lines 22-35) of the consumer when requesting authorization paying for the transaction (Column 13, lines 35-45), a means for including the transmitted information or TV context information (Column 13, lines 36-38) in an authorization token created by the issuer and the token is digitally signed by the issuer or an attachment of a signature which is being transmitted is a digital signature of the issuer (Column 40-42), means for

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sending the authorization token and TV context information to an acquirer (Column 13, lines 58-64) that is distinct from and processes payments for the merchant (Column 13, lines 66-67, Column 14, lines 1-13) when requesting the acquirer to collect the payment for the transaction (Column 14, lines 4-10); and means for concluding and verifying the issuer created the digital signature on the authorization token (Column 13, lines 66-67, Column 14, lines 1-13), that the payment was authorized by the issuer and the information or TV context information has not been altered (Column 14, lines 11-25) as taught by Daly in order to reduce or prevent fraudulent transactions (Column 3, lines 23-24) as disclosed by Daly.

It would have been obvious at the time the invention was made to modify Schein to include automatically allocate a portion of the payment or commission (Page 5, paragraph 0203) to the TV originator or another payee or payee (Figure 1) as taught by Shell in order to promote the sale of a product (Page 1, paragraph 0002) as disclosed by Shell.

Regarding Claims 7, 26, 45, Schein, Daly, and Shell disclose all the limitations of Claim 1, 20, and 39. Shell discloses a means for extracting an identification of each of one or more of the TV originators or seller(s) via a registration data including personal identification data (Page 3, paragraph 0073-0084, Page 4, and paragraphs 0147-0150). Shell discloses that the portion to be allocated is calculated for each of the sellers or TV originators (Pages 5-6, paragraph 0203-0207). Shell discloses that the portion or commission is predetermined in the multi-level marketing (Page 1, paragraph 0002). It

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is inherent that if the sellers and payers are going are going to be paid via a multi level marketing that the calculations are conducted via predetermined percentage.

Regarding Claims 8, 27, 46, Schein, Daly, and Shell disclose all the limitations of Claim 1, 20, and 39. Schein discloses TV context information (Column 8, lines 43-47, lines 4, Column 22, lines 66-67, Column 23, lines 1-12). Daly discloses creating an authorization token or a digital signature, which undergoes numerous tests prior to the transmission to the transaction routing system or acquirer (Column 13, lines 46-67). It is inherent that the information is extracted in order for the transaction routing system or acquirer to verify the authorization is legitimate.

Regarding Claim 59, Schein, Daly, and Shell disclose all the limitations of Claim 46. It is inherent that the extracted information from a payment processor is sent to the merchant.

Regarding Claim 62, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the TV context comprises a TV program in which the offering is presented to the consumer (Column 24, lines 50-56) and the gathered TV context information comprises information from a data stream transmitted with the TV program (Column 21, lines 44-65).

Regarding Claim 63, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the TV context comprises an advertisement shown during a TV program in which the offering is presented to the consumer during the advertisement (Column 22, lines 57-65) and the gathered TV context information comprises information from the advertisement (Column 21, lines 44-65).

Regarding Claim 64, Schein, Daly, and Shell disclose all the limitations of Claim 39. Daly discloses that the purchase request includes the identification of the consumer (Column 7, lines 1-7).

Regarding Claim 65, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the TV context information comprises an identification of TV program, the channel, or the station being displayed when the transaction was initiated (Figure 21C).

Regarding Claim 66, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the TV context information comprises an original broadcast date and/or time of a TV program being watched by the consumer when the transaction was initiated (Figure 21C and Figures 17A-17C).

Regarding Claim 67, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the TV context further comprises TV viewing records of the consumer (Column 20, lines 41-43).

Regarding Claim 68, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the gathered TV context information comprises identification, date, and/or time of an advertisement from which the consumer initiated the transaction (Figure 16A).

Regarding Claim 69, Schein, Daly, and Shell disclose all the limitations of Claim 39. Schein discloses that the gathered TV context information further comprises an indication that the transaction was initiated from the interactive television environment (Figure 15).

Regarding Claim 70, Schein, Daly, and Shell disclose all the limitations of Claim 39. Daly discloses that the device digitally signs the payment authorization request before transmission to the issuer (Column 8, lines 47-61). It is inherent in such a system that the transmitter's digital signature must be verified in order to properly decrypt the encrypted data. This reads on the claimed device digitally signing the payment message on behalf of the consumer before transmission to the issuer and that the issuer verifies the signature as a condition of authorization the payment.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FEH  
August 1, 2005



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